

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

- - - - -X

UNITED STATES OF AMERICA :

INDICTMENT

- v. - :

1st Cr. *HT*
2

ROGELIO LEYBA, :

Defendant. :

13 CRIM055

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COUNT ONE

(Conspiracy to Commit Healthcare Fraud)

The Grand Jury charges:

1. From at least in or about 2007 up to and including in or about December 2012, in the Southern District of New York and elsewhere, ROGELIO LEYBA, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to to violate Title 18, United States Code, Section 1347.

2. It was a part and an object of the conspiracy that ROGELIO LEYBA, the defendant, and others known and unknown, willfully and knowingly would and did execute and attempt to execute a scheme and artifice to defraud a health care benefit program, and to obtain, by means of false and fraudulent pretenses, representations, and promises money owned by and

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JUDGE DANIELS

under the custody and control of a health care benefit program in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Conspiracy to Commit Adulteration Offenses and the Unlawful Wholesale Distribution of Prescription Drugs)

The Grand Jury further charges:

3. From at least in or about 2007, up to and including in or about December 2012, in the Southern District of New York and elsewhere, ROGELIO LEYBA, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, violations of Sections 331(a), 331(b), 331(c), 331(t), 333(a)(2), 333(b)(1)(D), and 353(e)(2)(A) and (B) of Title 21, United States Code.

4. It was a part and an object of the conspiracy that ROGELIO LEYBA, the defendant, and others known and unknown, willfully and knowingly, and with the intent to defraud and mislead, would and did introduce and deliver for introduction into interstate commerce a drug that was adulterated, as that term is defined in Title 21, United States Code, Section 351(a),

in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2).

5. It was a further part and an object of the conspiracy that ROGELIO LEYBA, the defendant, and others known and unknown, willfully and knowingly, and with the intent to defraud and mislead, would and did adulterate as that term is defined in Title 21, United States Code, Section 351(a), a drug in interstate commerce, in violation of Title 21, United States Code, Sections 331(b) and 333(a)(2).

6. It was further a part and an object of the conspiracy that ROGELIO LEYBA, the defendant, and others known and unknown, willfully and knowingly, and with the intent to defraud and mislead, would and did receive in interstate commerce a drug that was adulterated, as that term is defined in Title 21, United States Code, Section 351(a), and would and did deliver and proffer delivery thereof for pay and otherwise, in violation of Title 21, United States Code, Sections 331(c) and 333(a)(2).

7. It was further a part and an object of the conspiracy that ROGELIO LEYBA, the defendant, and others known and unknown, willfully and knowingly would and did engage in the wholesale distribution in interstate commerce of prescription drugs subject to Title 21, United States Code, Section 353(b) in a State, at a time when the defendant and his coconspirators were not licensed by that State, in accordance with the guidelines

issued under Title 21, United States Code, Section 353(e)(2)(B), in violation of Title 21, United States Code, Sections 331(t), 333(b)(1)(D), and 353(e)(2)(A) and (B).

Overt Act

8. In furtherance of the conspiracy, and to effect the illegal objects thereof, the following overt act, among others, was committed in the Southern District of New York and elsewhere: on or about August 14, 2012, ROGELIO LEYBA, the defendant, sold 61 bottles of prescription medications to a cooperating witness, which had been held under unsanitary conditions, and without a license from any state to engage in such a sale.

(Title 18, United States Code, Section 371.)

FORFEITURE ALLEGATIONS

9. As a result of committing the conspiracy to commit health care fraud offense alleged in Count One of this Indictment, ROGELIO LEYBA, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), any property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense.


Substitute Assets Provision

10. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:


- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to 18 U.S.C. § 982(b) and 21 U.S.C. § 853(p), to seek forfeiture of any other described forfeitable property.

(Title 18, United States Code, Sections 981 and 982
Title 21, United States Code, Section 853, and
Title 28, United States Code, Section 2461.)



FOREPERSON



PREET BHARARA
UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

ROGELIO LEYBA,

Defendant.

INDICTMENT

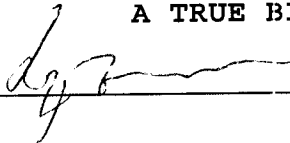
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(Title 18, United States Code, Sections
1349, 371)

PREET BHARARA

United States Attorney.

A TRUE BILL



Foreperson.

1/12/13 - Filed Indictment
cc. Case assigned to Judge Daniels
Judge Fox
L.M.J.